

HOUSE FINANCE COMMITTEE  
March 22, 2022  
1:40 p.m.

1:40:12 PM

CALL TO ORDER

Co-Chair Foster called the House Finance Committee meeting to order at 1:40 p.m.

MEMBERS PRESENT

Representative Neal Foster, Co-Chair  
Representative Kelly Merrick, Co-Chair  
Representative Dan Ortiz, Vice-Chair  
Representative Ben Carpenter  
Representative Bryce Edgmon  
Representative DeLena Johnson  
Representative Andy Josephson  
Representative Bart LeBon  
Representative Sara Rasmussen  
Representative Steve Thompson  
Representative Adam Wool

MEMBERS ABSENT

None

ALSO PRESENT

Alexei Painter, Director, Legislative Finance Division;  
Chad Hutchison, Director, State Relations, University of Alaska.

PRESENT VIA TELECONFERENCE

Jason Brune, Commissioner, Department of Environmental Conservation; Cori Mills, Assistant Attorney General, Office of the Attorney General, Department of Law.

SUMMARY

HB 281      APPROP: OPERATING BUDGET/LOANS/FUNDS

HB 281 was HEARD and HELD in committee for further consideration.

HB 282 APPROP: MENTAL HEALTH BUDGET

HB 282 was HEARD and HELD in committee for further consideration.

Co-Chair Foster reviewed the agenda for the meeting. The committee would continue the amendment process on the operating budget. He relayed the committee would pick up where it left off earlier in the day.

#hb281

#hb282

HOUSE BILL NO. 281

"An Act making appropriations for the operating and loan program expenses of state government and for certain programs; capitalizing funds; amending appropriations; making reappropriations; making supplemental appropriations; making appropriations under art. IX, sec. 17(c), Constitution of the State of Alaska, from the constitutional budget reserve fund; and providing for an effective date."

HOUSE BILL NO. 282

"An Act making appropriations for the operating and capital expenses of the state's integrated comprehensive mental health program; making capital appropriations and supplemental appropriations; and providing for an effective date."

[1:40:49 PM](#)

^AMENDMENTS

[1:40:59 PM](#)

Representative Johnson MOVED to ADOPT Amendment L8, 32-GH2686\R.9 (Marx, 3/17/22) (copy on file):

Page 87, following line 12:

Insert a new bill section to read:

"\*Sec. 33. DEPARTMENT OF LAW. The sum of \$4,000,000 is appropriated from the general fund to the Department of Law, civil division, for litigation relating to the defense of rights to develop and protect the state's natural resources, to access land, to manage its fish and wildlife resources, and to protect state sovereignty in the fiscal years ending June 30, 2023, June 30, 2024, and June 30, 2025."

Renumber the following bill sections accordingly.

Page 104, lines 29-30:

Delete "sec. 41(x)"

Insert "sec. 42(x)"

Page 104, line 31:

Delete "sec. 41(x)"

Insert "sec. 42(x)"

Page 105, lines 14-15:

Delete "35, 39(b) and (c), 41, 42(a)-(1), 43(a)-(c), 47, and 48(b)"

Insert "36, 40(b) and (c), 42, 43(a)-(1), 44(a)-(c), 48, and 49(b)"

Page 105, line 30:

Delete "51"

Insert "52"

Page 106, line 2:

Delete "secs. 53-55"

Insert "secs. 54-56"

Representative Wool OBJECTED for discussion.

Representative Johnson explained the amendment. She noted the Department of Law (DOL) was online to answer any questions. The amendment was a \$4 million multiyear appropriation for DOL to protect statehood rights. She detailed that the state historically had to fight for its rights granted in the 10<sup>th</sup> Amendment of the United States Constitution. She elaborated that the Alaska National Interest Lands Conservation Act (ANILCA) and Alaska Native Claims Settlement Act (ANCSA) both reinforced state management authority over its lands and right to sustainably develop its lands and resources for the maximum benefit of the people. She highlighted that the state had

experienced an unprecedented amount of litigation involving the state's ability to responsibly manage and protect its fish and game and other natural resources. She continued that much of the issue was due to federal actions, but a portion was due to other influences outside of Alaska wanting to shut down the state's economy. She reported there had been a 30 percent increase in litigation the previous year. She cautioned that the interest of the state and its people would go unrepresented in matters directly impacting resource development and jobs if the state was not engaged.

Representative Johnson stated the funds were needed to defend the state's rights to manage fish and game resources and other. She emphasized the issue was crucial to Alaska's economy to provide food security to rural communities. She stated it was about Alaska being able to mind its own business and do its own business. She pointed out there were ongoing legal cases and 11 anticipated cases DOL was expected to file with a cost of \$8 million or more. She highlighted case topics including the Endangered Species Act, Clean Water Act, contaminated sites, resource management plans, RS 2477 issues, Tongass issues, and navigability of waters. She relayed DOL had already authorized \$1.3 million in outside counsel contracts related to statehood defense. She estimated the amount would more than double in the next couple of years. The additional \$4 million over three fiscal years would ensure the increase in litigation was covered. She relayed that the increment was not frivolous. She pointed out it was not always possible to know where a lawsuit would come, but it was necessary to be prepared.

[1:44:57 PM](#)

Representative Josephson asked if [Department of Environmental Conservation] Commissioner Brune was online.

Representative Johnson replied affirmatively.

Representative Josephson remarked that he found that interesting in itself. He highlighted that the DOL subcommittee had been told by the department one month earlier that the department had spent \$260,000 of the \$4 million appropriated by the legislature for the current fiscal year. He highlighted that the funding for the current year was also a multiyear appropriation. He stated

that the department had spent less than 15 percent of the appropriation. Additionally, the department wanted to double the money it had not spent and extend the spending timeframe. He thought the smarter course was for the department to report back in January about its progress and need.

Representative LeBon supported the amendment. He stated that the timing and amount required to litigate was unpredictable. He highlighted there had been multiyear legal disputes involving effort and expense when he had worked in the banking industry. He pointed out it was necessary to be prepared for the possibility of a lawsuit. He stressed the need to give DOL the support.

Representative Thompson supported the amendment. He stated that the money had not been spent from the previous year because DOL had been using existing funds knowing there were currently 11 active cases with additional cases to come. He wanted to make sure the state was prepared to fight for its rights.

Representative Rasmussen supported the amendment. She recognized that one of the previous speakers found it peculiar that the DEC commissioner was online, but she noted there were several areas where the state was concerned about federal overreach including the Clean Water Act. She believed several of the areas fell under Commissioner Brune's department. She thought it would be good to hear from the commissioner about what DEC was anticipating. She noted that the current federal administration was against responsible resource development in the state. She remarked the state had a unique opportunity to reduce reliance on other countries if projects such as Willow were allowed to move forward and produce [oil]. She elaborated that Alaska could reduce reliance on other countries like Russia that did not develop as responsibly as Alaska and were involved in activities Alaska did not support. She requested to hear from Commissioner Brune.

[1:48:43 PM](#)

JASON BRUNE, COMMISSIONER, DEPARTMENT OF ENVIRONMENTAL CONSERVATION (via teleconference), relayed that he was the current chair of the statehood defense team that met on a weekly basis. The team included [Department of Fish and

Game] Commissioner Vincent-Lang, [Department of Natural Resources] Commissioner Feige, Attorney General Taylor, and additional staff. He relayed that the team discussed the ways the state was constantly under attack under areas like the Clean Water Act where the "everchanging" definition impacted Alaska more than any other state and in contaminated sites where the federal government refused to clean up nearly 1,000 sites on Alaska Native Corporation and State of Alaska land. He elaborated that the state had hired outside counsel to assist with the matters. The state was developing information that could cost over \$500,000 to develop the case and bring litigation. Additionally, the team constantly talked about the impacts to oil and gas, state submerged lands, subsistence resources, and statehood entitlements and access to state lands. He reported that the weekly meetings lasted longer than an hour and there was always more to discuss. He stressed that the state was under attack. He underscored the need for the amendment.

Co-Chair Foster noted DOL was online for questions as well.

1:51:04 PM

Co-Chair Merrick asked if there were any statistics on the success of previous lawsuits. She was interested in the bang for the buck the state was getting.

CORI MILLS, ASSISTANT ATTORNEY GENERAL, OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LAW (via teleconference), answered there were many different types of cases. She began with navigability and RS 2477 cases that were some of the most expensive. She had asked the same question recently and had been told the state had always gotten the rights it had sought to get. She noted it had sometimes taken too long and the department would prefer not to use the resources. She relayed that no federal administration ever appeared to have interest in sitting down with the state to work the things out. Instead, the state had to sue in order for the federal government to recognize what was rightfully Alaska's land. She added there had been a bad faith claim granted in one of the cases by the Alaska district court because the court found the federal government was bringing bad faith arguments. There were currently two ongoing cases and DOL had filed notices of intent in two other cases, which would be brought later in the year. Additionally, an RS 2477 case was currently being developed.

Ms. Mills discussed ANILCA cases. The department's strategy was to build off of the success of the U.S. Supreme Court in the [John] Sturgeon case. She detailed that the case had gone to the U.S. Supreme Court twice and the court had very good language for Alaska's rights under ANILCA. The case cost the state \$700,000 and she estimated the litigation cost to Mr. Sturgeon had been closer to \$2 million. She stated that the case had been seminal in terms of looking at Alaska's management rights. The department was building off of the case to have the recognition more broadly acknowledged. She highlighted the costs were reduced in cases where the state joined with other states that took the lead. She referenced the oil and gas drilling ban by executive order under the current federal administration and reported the state had received a preliminary injunction to allow Cook Inlet lease sales to move forward. She noted there were other pending cases. She clarified she was not claiming the state did not have losses. She expounded the state had received a dismissal in a public land order case and the department was evaluating whether to appeal. She believed the state was heading the right direction on many of the larger issues.

[1:55:29 PM](#)

Co-Chair Merrick asked what happened to the money if the \$4 million was not used within three fiscal years.

ALEXEI PAINTER, DIRECTOR, LEGISLATIVE FINANCE DIVISION, replied that the funding would lapse to the General Fund if not used.

Representative Carpenter asked how to characterize DOL's spend plan for the money already appropriated by the legislature. He asked if the department had anticipated spending more or less of the multiyear funding to date. He asked if the legal action the department hoped to accomplish had been impacted in the past year as a result of the slowing down of the court system due to the pandemic. Likewise, he asked if it had impacted DOL's ability to spend the appropriated funding.

[1:57:24 PM](#)

Ms. Mills answered that there were six or seven cases currently filed using the existing fund source for the

workload including outside counsel in some cases. Based on prior similar cases, the department estimated the cases would cost between \$3 million to \$6 million. She explained that a case was always cheaper at the beginning. She did not know that the court system had contributed to a delay but there had been numerous motions for stay and extension by the opposing party. Subsequently, there had been numerous starts and halt action; however, those cases would eventually get going. She reviewed the department's spending to date. When the department had reported to the budget subcommittee, it had spent approximately \$266,000. She added outside counsel contract invoices and estimated the spending to date at \$350,000 internally and \$250,000 for outside counsel for January and February. She expected the costs to continue increasing because the six cases were likely to accelerate.

Representative Wool asked how many lawyers were in the Department of Law.

Ms. Mills answered there were currently 126 or 127 filled attorney positions and 17 vacancies within the Civil Division. She noted the Criminal Division had similar numbers.

Representative Wool asked if the department historically used in-house lawyers in lawsuits against the federal government and hired outside expertise once in a while. Alternatively, he wondered if historically the department had used in-house attorneys only.

Ms. Mills replied that the department had seen different eras and phases depending on workload, in-house expertise, and how its recruitment and retention efforts were going. For example, at one point DOL had brought all of its Endangered Species Act work in-house because it had built up the expertise over time where in-house attorneys had worked alongside outside counsel. There had been about a 30 percent increase in the type of work coming from agency referrals and DOL was having to rely more heavily on outside counsel. She noted the department was trying to be strategic in regard to reliance on outside counsel.

[2:01:53 PM](#)

Representative Wool asked if there was an effort to reduce outside counsel. He estimated the department had currently



spent about \$600,000 out of the \$4 million appropriation it received the previous year. He asked if another \$4 million appropriation would lead the department to be less thrifty on outside counsel instead of focusing on using the funds in-house.

Ms. Mills answered that the multiyear appropriations had been used for the department in the past for cases like BP corrosion and Flint Hills. She understood the tension around wanting to use the money; however, DOL really wanted to build up its expertise in-house and partnering with outside counsel meant DOL got the biggest bang for its buck because after four years, the department hoped its workload would be reduced to a manageable level and that it would have rebuilt in-house resources due to recruitment and retention efforts. The department was utilizing its in-house counsel for issues it deemed to be the best use of their resources and it used outside counsel to augment. She clarified that use of outside counsel had not been the first place the department had gone.

Representative Wool used the Alaska Permanent Fund Corporation (APFC) as an example and explained that APFC was trying to hire additional in-house investors to save money on expensive external managers. He stated it would be nice to see the department try to fill positions with specialty expertise.

2:04:43 PM

AT EASE

2:12:42 PM

RECONVENED

Co-Chair Merrick MOVED to ADOPT conceptual Amendment 1 to Amendment L8 to reduce the sum from \$4 million to \$2 million.

Representative Johnson OBJECTED. She stated the appropriation had been \$4 million the previous year and the remaining funds were \$3.2 million. She noted costs were accelerating and \$250,000 had been used in the last couple of months on outside counsel. She believed there were 11 anticipated matters coming up and 8 in the process that DOL had not yet gone public with. She stated there was little funding left in the reserve from the appropriation the previous year. She estimated the amount at around \$600,000.

She stated the action would leave \$2.6 million through FY 25. She pointed out that legal costs did not typically go down and additional resources were often required. She reasoned that the initial costs were not always indicative of the final costs. She highlighted that the funds would lapse into the General Fund if they went unused. She wanted to start strong, not slow. She opposed the conceptual amendment.

Representative Josephson asked what years the \$4 million appropriated by the legislature in June covered.

Ms. Mills believed the funds went through FY 25.

Representative Josephson stated his understanding that the department had received a multiyear appropriation nine months ago and it wanted to double the amount that would extend through FY 25.

Ms. Mills agreed.

[2:17:11 PM](#)

Representative Rasmussen asked how many cases the staff attorneys within DOL typically had at any given time.

Ms. Mills answered that she did not have the details on hand. She relayed that the Civil Division dealt with about 8,600 matters annually. She noted that every matter was different, some cases took up an attorney's entire time for a year and other small cases took much less time. She added there were some attorneys who worked on agency advice matters in addition to cases. She would follow up with the information shortly.

[2:18:47 PM](#)

AT EASE

[2:20:00 PM](#)

RECONVENED

Representative Johnson stated that after some thought and some input it sounded like DOL would be able to work with the \$2 million. She was willing to work with the number. She WITHDREW her OBJECTION to conceptual Amendment 1 to Amendment L8.

Representative Carpenter OBJECTED. He asked how much of the \$3 million to \$6 million the department anticipated needing by the March 2023.

Ms. Mills answered that if all of the current cases took the least amount of time - with two years being the least amount of time and four years being the most - the \$3 million to \$6 million would be spent by July through the fall in 2023. The cases should be on a trajectory to be finished within one to two years.

Representative Carpenter pointed out the committee was either approving the additional \$4 million (on top of the previous \$4 million appropriation) at present or it would have to deal with finding the funding in the future. He WITHDREW his OBJECTION.

There being NO further OBJECTION, conceptual Amendment 1 to Amendment L8 was ADOPTED.

2:23:27 PM

Representative Edgmon would support Amendment L8 as amended. He recalled an article he read in the past year specifying that outside counsel could cost \$600 per hour. He estimated that the funding including the \$2 million [in Amendment L8 as amended] would provide for 8,666 hours of counsel. He divided the amount by 15 months (the amount of time that would lapse between the present time and the end of FY 23) to get 600 hours per month at \$600 per hour. He had asked Mr. Painter what other programs the legislature was forward funding. The legislature was attempting to forward fund K-12 education. He stated there were several other things in the budget that Mr. Painter could speak to if the committee desired. He pointed out the appropriations essentially forward funded litigation against the federal government. He stated that the state's success rate in the area was very mixed. He pointed out that the legislature rarely forward funded other things in state government.

Representative Edgmon would support the \$2 million. He remarked that every governor on both sides of the aisle had fought pushback from the federal government. He detailed that the state was made up of up to 63 percent federal land. He remarked that the heavy handedness of ANILCA would be interpreted for another 100 years. Additionally, he referenced the Wilderness Act from the 1960s and other

grand omnibus bills that landed on Alaska the hardest. He remarked it was the nature of the DNA in the state was fighting the federal government. He stressed the amount given to the department combined with the amendment was a ton of money for thousands of hours of legal work that would not cost \$600 per hour. He would support the amendment. He reiterated that it was forward funding a lot of money. He highlighted that the state could still be paying for the litigation in ten years' time. He mentioned RS 2477 cases in Co-Chair Foster's district and navigable waters. He clarified that he did not believe Mr. Sturgeon had paid \$2 million out of pocket; the funds had mostly come from third-party sources. He would support the amended amendment; however, he stated it was possible to argue there were other places the funding could go.

2:27:21 PM

Vice-Chair Ortiz asked how long Ms. Mills had worked with DOL.

Ms. Mills answered that she had been with DOL for 10.5 years.

Vice-Chair Ortiz stated that Ms. Mills' experience included several different administrations. He asked if the department's size had gradually increased or remained stable during her employment. Additionally, he asked if the funding for outside counsel by the department increased or remained stable during the same timeframe.

Ms. Mills answered that outside counsel for the department's general budget was thrown in with the department's general appropriation. The department used outside counsel when deemed necessary and its goal had been to reduce the number, which had been pretty successful. She noted the department had shared a chart with the budget subcommittee showing that the number had gone down. The number would rise with the [statehood defense] work, but it would not reach its historic levels associated with oil and gas work. She reported that the Civil Division's undesignated general fund (UGF) budget had decreased around 30 percent since FY 15 or FY 16. The department had worked to keep the reductions from impacting attorney positions; however, it had been necessary to leave an increased number of positions vacant for a longer period of time. There were currently 17 vacancies. She did not see the department's

use of outside counsel as having increased substantially. She reported there had been a decrease since the cuts to the Civil Division. The funding in the amendment would be an increased trend to the extra work in the area.

2:30:35 PM

Vice-Chair Ortiz referenced the \$2 million included in the amendment and the \$4 million appropriation from the previous year. He asked if there had been an appropriation made for outside counsel two years back.

Ms. Mills answered there had not been an "outside of normal" appropriation in the department's budget. She relayed the last time the department received a multiyear appropriation was for the Flint Hills litigation related to the Fairbanks refinery and contamination. She estimated the litigation had started six or seven years back and there had been a multiyear appropriation for the specific case.

Vice-Chair Ortiz asked if there had been a significant increase in engaging in lawsuits with the federal government over the past several years.

Ms. Mills answered affirmatively. She estimated the increase as about 30 percent year-over-year from the past two years. Previously, the department's federal issues list contained between 30 and 35 cases. The number was up to 50 in the current year. She clarified that in some of the cases the state was aligned with the federal government and had been sued by other parties. She explained the state was involved to ensure its interest was represented. She elaborated there were two types of litigation in the area, but everything involved federal issues, state jurisdiction, state's rights, and state sovereignty. The state was aligned with the federal government in some cases such as the King Cove case where the state had just recently received a positive ruling. In other cases, the state was in conflict on its jurisdictional ground (determining whether an issue was state or federal).

2:33:34 PM

Vice-Chair Ortiz asked Commissioner Brune about his recent statement that the state was under attack. He asked if the commissioner was referring to the federal government.

Commissioner Brune replied affirmatively. He stated it was imperative for the state to defend its rights. He elaborated that DEC was seeing everything from changing definitions of waters of the U.S. to Endangered Species Act. He stated the most concerning was the reopening of projects with records of decisions having gone through the environmental permitting process. He stated it brought a level of uncertainty to the investment community that was very concerning.

Vice-Chair Ortiz asked if the commissioner recalled his testimony in the subcommittee process that the relationship between DEC and EPA [Environmental Protection Agency] was a "really good relationship."

Commissioner Brune replied he had been referring to the EPA's efforts to help on the contaminated sites issue as well as the state's efforts to assume primacy of 404 and RCRA [Resource Conservation and Recovery Act]. He elaborated that EPA had been extremely helpful in those areas and the state and EPA had a good relationship in that respect.

Vice-Chair Ortiz asked where the attack was specifically coming from.

Commissioner Brune answered that it was coming from all branches such as the Department of Interior in its efforts to deny projects that had received records of decision through the National Environmental Policy Act (e.g., projects on the North Slope and Ambler Road). Additionally, the EPA had an everchanging definition of Waters of the United States (WOTUS). He highlighted Fish and Wildlife Service efforts on Endangered Species Act issues. He stated that the current federal administration had Alaska in its sights.

[2:37:08 PM](#)

Representative Wool directed a question to Ms. Mills. He referenced the 17 unfilled positions out of 144 total [within the Civil Division]. He estimated the vacancy rate at 12 percent. He asked how many of the 17 positions were currently funded.

Ms. Mills replied there were a total of 144 to 146 positions. She answered that the positions were funded, but

the department had a vacancy factor that was taken into account. She believed the Office of Management and Budget could speak better to the issue. She explained that the department received general funds and reimbursable services agreements; therefore, the number of positions the department had to fund was dependent on what other departments were able to provide in terms of legal services. She clarified that DOL had to link all of its matters to the specific funding source, whether it was a department or general funds. The department was constantly evaluating what that looked like.

Representative Wool stated his understanding there was funding for 146 positions that were not all filled, and part of the reason for using outside counsel was because the department lacked certain expertise in-house. He asked if DOL could use some of the funding to pay for outside counsel. He thought it sounded like the department had more funding than it was using.

[2:39:34 PM](#)

Ms. Mills did not believe it was completely accurate to say the department had money sitting around. She clarified that the department's budget was a balancing act with all of the different sources. She stated the Natural Resources Section was currently filled (although there may be one attorney departing). She explained it depended on which section a person was looking at. The department's work on the [statehood defense] issues had increased about a 30 percent. She explained that even if a vacant position was filled, the workload exceeded the number of attorneys. She was uncertain where the department would be on its budget at the end of the year because it required numerous projections from various sources and some of the sources could be used for some purposes and not others. She relayed that the workload exceeded the funding included in the department's annual budget.

Representative Wool supported the compromise on the amendment. He highlighted the department had spent less than a quarter of the \$4 million multiyear appropriation from the previous year. He understood the department had bills coming in [that required payment]. He assumed the department would come back the following year with another multiyear appropriation request if it were to fully expend the \$2 million provided by the amendment. He noted that Ms.

Mills had referenced Flint Hills, but he did not believe it would be covered by the funding in the amendment because it did not pertain to statehood defense. He surmised that DOL already had money for outside contracts within its budget. He thought the funds could cover outside counsel if it ran out of the \$4 million [appropriated the previous year].

Ms. Mills replied that every year the department had to review and prioritize referred cases and incoming funding based on the timing of the cases and the statute of limitations. The department was currently facing numerous priorities with insufficient resources. She apologized if her statement about Flint Hills had been misleading. She clarified she had been using the case as a prior example of a multiyear funding approach. She elaborated that the multiyear funding approach had been used in the past for Flint Hills and BP corrosion. She noted the language in the past appropriation had been different and would not fit under the current appropriation.

Co-Chair Merrick called the question on the amendment.

Co-Chair Foster asked Representative Johnson to provide wrap up on the amendment.

Representative Johnson believed the amended Amendment L8 was a good compromise. She stated it would be good to hear back sooner rather than later on the status.

Representative Josephson WITHDREW his OBJECTION.

There being NO further OBJECTION, Amendment L8 was ADOPTED as amended.

[2:44:12 PM](#)

Co-Chair Foster provided a review of the total number of amendments and where the committee was in the process.

Representative LeBon MOVED to ADOPT Amendment L9, 32-GH2686\R.5 (Marx, 3/16/22) (copy on file):

Page 88, line 20:  
Delete "\$22,800,000"  
Insert "29,800,000"

Page 88, following line 30:



Insert new material to read:

"Mariculture research and development \$7,000,000"

Representative Rasmussen OBJECTED for discussion.

Representative LeBon explained the amendment. The amendment impacted the language section of the budget located on page 88, Section 37, and pertained to the University of Alaska. He read from a prepared statement:

This amendment should look familiar, as it passed out of the university subcommittee as a recommendation. If adopted, this amendment would add \$7 million to the University of Alaska's mariculture North Pacific Fisheries Arctic and Pacific North Ocean sciences. The fund sources, the Coronavirus State and Local Fiscal Recovery Funds or commonly known as CSLFRF, federal money was consistent with other research development projects in this section of the budget including the drone program at UAF, critical minerals, heavy oil, and fits in with the intent of CSLFRF funding to be used for economic recovery.

Representative LeBon remarked that committee members were all familiar with resource development that centered around oil and gas and other essential minerals, but it could also be found in fisheries and mariculture. He detailed that the governor's mariculture task force had set a goal of growing the "blue economy" industry by \$100 million in 20 years. He reported the critical goal had a chance to be reached with university training and research development. He elaborated that the university was actively working on expanding opportunities in mariculture and the funding provided by the amendment was critical to support the young industry. He highlighted there had been public testimony in support of the amendment concept. He noted the university was available to answer any questions.

[2:47:44 PM](#)

Representative Wool agreed that the university subcommittee had dealt with the issue. He supported the amendment and discussed that it used federal CSLFRF funding and diversified the economy, which was needed. He highlighted discussions on food security and investing in farming in various areas such as Mat-Su, Nenana, and Delta. He stated that mariculture was a key part of the discussion and would

become more central moving forward. He stated that drought was not a concern when things could be grown underwater. He hoped the program would grow.

2:49:00 PM

Vice-Chair Ortiz supported the amendment. He stated that the difference in investing in mariculture development compared to other resource development was mariculture is a renewable industry. He highlighted that the market for the products never went away, people would always need to eat. He concluded it was a win-win situation and he was proud to support the amendment.

Representative Rasmussen would likely not support the amendment if it were funded with General Fund dollars; however, she was open to giving it a shot because the amendment utilized a federal grant. She was concerned about expanding areas subsidized by the state. She thought it was one thing to help a program get off the ground, but it was another thing to heavily subsidize a private sector business in perpetuity. She recognized there was currently a workforce shortage across industries and state departments. She spoke to the importance for the state to be asking where the greatest need resided in the workforce shortages and to ensure all state resources were being used for areas that maximized the greatest benefit to all Alaskans.

Representative Carpenter requested to hear from the university on the results or outcome of the money being spent by the university. He was aware his own efforts to farm and sell peonies benefitted from studies by the university a decade back. He agreed there was opportunity in mariculture. The state had vast coastline and there were many places in the world that eat things the state could produce. He was concerned about funding studies that did not result in anything. He wanted to hear what the university thought it could achieve with the funding.

2:52:43 PM

CHAD HUTCHISON, DIRECTOR, STATE RELATIONS, UNIVERSITY OF ALASKA, answered that one of the things the university thought about was what it could do to help Alaska. He shared that mariculture was on the university's list when the governor had asked the university for a list of its

most important viable research projects. He reported that the amendment would benefit the University of Alaska Anchorage, Southeast, and Fairbanks. He explained that \$5 million of the funding would go to workforce development, increasing capacity at the blue economy research center. He detailed there would be a focus on genetic infrastructure in Southcentral Alaska including a research component. He elaborated there would be an increase in the future hiring of faculty to ensure the university had enough personnel for production quality and grade mariculture (kelp, seaweed, and shellfish). The university was bullish on kelp, which grew quickly, and Alaska had substantial compatible coastline. Part of the university's focus was to try to make the most effective, efficient product growth and to ensure the product was harvested in a productive way.

Mr. Hutchison relayed that in 2019, the entire mariculture industry in Alaska had been about \$1.4 million. He reported the goal was to increase the number to \$100 million, meaning it was necessary to increase workforce capacity. He expounded that the University of Alaska Southeast planned to ramp up its mariculture undergraduate and graduate program. He spoke to the importance of sufficient personnel to help harvest, run clinicals, and conduct testing to ensure the kelp was healthy and in pristine conditions. Under the University of Alaska Anchorage, the Institute of Social and Economic Research (ISER) would be involved with grading and analyzing commercial grade mariculture and deciding locations throughout Alaska where mariculture would benefit coastal communities. Additionally, the university hoped to teach and outreach to coastal communities in rural Alaska to boost their mariculture capacity in the future. The \$7 million increment in the amendment would fund all of the aforementioned activities.

Representative Rasmussen WITHDREW her OBJECTION.

There being NO further OBJECTION, Amendment L9 was ADOPTED.

[2:55:54 PM](#)

Representative Thompson WITHDREW Amendment L10, 32-GH2686\R.6 (Marx, 3/17/22) (copy on file).

[2:56:08 PM](#)

Representative Rasmussen MOVED to ADOPT Amendment L11, 32-GH2686\R.19 (Marx, 3/18/22) (copy on file):

Page 98, following line 6:

Insert a new subsection to read:

"(w) The sum of \$123,000,000 is appropriated from the general fund to the oil and gas tax credit fund (AS 43.55.028)."

Reletter the following subsections accordingly.

Page 104, lines 29-30:

Delete "sec. 41(x)"

Insert "sec. 41(y)"

Page 104, line 31:

Delete "sec. 41(x)"

Insert "sec. 41(y)"

Representative Josephson OBJECTED for discussion.

Representative Rasmussen explained the amendment funded the remainder of the oil and gas tax credits owed by the state. She read from a statement:

We likely owe in the ballpark of \$132 million. The oil tax credits have been owed. It's the state's responsibility to ensure that these credits are paid. The entire outstanding oil tax credit balance was paid annually through fiscal year 15. The statutory appropriation based on Department of Revenue's interpretation was paid through fiscal year 18. \$100 million out of the statutory \$184 million was paid in fiscal year 19 and no credits were paid through fiscal year 20 and 21. I believe that this is a time we can pay this debt and reduce the debt service for subsequent years. At this point I think it's really important that the state does everything we can to encourage confidence in the private sector that Alaska will make good on our promises and pay our debts.

Representative Rasmussen noted the committee had received updated language from Mr. Painter. She added intent to propose a conceptual amendment for clarity.

Representative Rasmussen MOVED to ADOPT conceptual Amendment 1 to Amendment L11. She explained the conceptual amendment would replace the current language with:

The amount necessary to purchase transferrable tax credit certificates presented for purchase estimated to be \$472 million that is appropriated from the General Fund to the Oil and Gas Tax Credit Fund.

Co-Chair Foster asked if Mr. Painter had anything to add.

Mr. Painter gave context for the conceptual amendment. He explained the existing Section 41(v) in the bill appropriated an amount equal to 10 percent of the revenue collected, estimated at and not to exceed \$349 million. He detailed the amendment as currently drafted would add \$123 million. He relayed there was some chance the \$349 estimate was incorrect or the estimate of the total amount of outstanding tax credits was incorrect. The proposed conceptual amendment would ensure the full balance of the tax credits would be paid if one or both of the two estimates was incorrect.

2:59:21 PM

AT EASE

3:15:44 PM

RECONVENED

Co-Chair Foster reviewed his intent related to the remainder of the meeting schedule.

Vice-Chair Ortiz OBJECTED to conceptual Amendment 1 to Amendment L11 for discussion.

Mr. Painter clarified the intent of the conceptual amendment was to replace the existing language in Section 41(v) referencing the \$349 [million] with language "the amount necessary to purchase transferrable tax credit certificates presented for purchase estimated to be \$472 million..."

Representative Wool relayed that he did not have a problem with the amendment to the amendment. He remarked that the amendment sponsor had stated the amendment would save money related to debt service and interest on tax credits. He stated his understanding there was no debt service or it

did not save any money to pay the credits off in one year as opposed to two years. He asked Mr. Painter about the accuracy of his understanding.

Mr. Painter answered that the state did not pay interest, although some of the recipients may be paying interest if they owed money and the payment from the state would be their repayment.

Representative Wool asked for verification that paying the credits off in one or two years did not save the state any money.

Mr. Painter agreed. He clarified that he had been referring to a situation where a company may owe a lender. He explained that in many cases the tax credits were owed to a lender.

[3:18:50 PM](#)

Representative LeBon supported the amendment. He stated the amendment offered the opportunity to be done with the discussion on oil and gas tax credits that had been lingering as an obligation to the state for many years. He stated that by opportunity of revenues received by the state from oil, the state had a chance to retire the credits.

Representative Rasmussen clarified that she had noted in her opening comments that the state would be reducing its overall debt service. She explained that the oil and gas tax credits were a debt the state carried and paying the balance meant the state would not carry the debt another year. She noted there were no cost savings to the state, but it would eliminate a debt the state was statutorily required to pay.

Vice-Chair Ortiz WITHDREW his OBJECTION to conceptual Amendment 1.

There being NO further OBJECTION, conceptual Amendment 1 to Amendment L11 was ADOPTED.

Representative Josephson asked for verification that prior to FY 15, when the state had been affluent, it had routinely paid all of the credits presented.

Mr. Painter answered that in many years by paying the amount submitted to the state, the state had paid less. He clarified that the language had been first adopted in order to save the state money because the statutory formula had resulted in more payments into the fund than there were credits being returned to the state at that time. He thought it would have shifted in FY 17 where the state had been paying the statutory amount each year. He explained the decision had been made to reduce annual contributions to the tax credit fund, not to increase it.

3:21:43 PM

Representative Wool stated that there was \$60 million in the FY 23 budget to pay the past year's credits. Additionally, the budget included funds to pay the current amount owed. He noted the amount owed would likely increase for the current year because the price of oil had gone up and the state had to pay 10 percent of its oil revenue. He remarked that if the amendment did not pass, the state would be writing a check for close to \$400 million for the oil tax credits. He continued that although the amount would not be paid off in full, it would be 80 to 90 percent paid off. He thought the state was paying off a substantial amount already. He pointed out that paying the credits off in full in the current year would not save the state any money. He understood that paying off the debt would be nice in a housekeeping way. He supported paying the statutory amount and making the final payment in the following year. He had heard the [credit] recipients got their amount based on the instate hires; therefore, it was possible to look at the list of payees to determine which companies were using more instate hires. He asked Mr. Painter if his understanding was accurate.

Mr. Painter replied there had been an amendment to the tax credit statute for some of the last credits issued that would prioritize payments based on Alaska hire.

Representative Wool thought it would be good information to have. He noted that some of the credits would go to lending institutions. He reasoned a bank in New York would not have instate hire. He surmised the bank in his example would be at the lower end of the list; however, it would be fully paid off the next year. He thought the legislature should stick to the statute and pay off the final amount the following year.

3:24:21 PM

Co-Chair Foster summarized the amounts paid and owed. He detailed that the previous year half of the statutory 10 percent minimum had failed to pass; therefore, \$60 million was owed for that year. He stated that the FY 23 budget paid the \$60 million. Additionally, according to the fall forecast, the formula would have paid \$199 million. He noted the \$60 million and \$199 million increments had both been included in the committee substitute. He elaborated that when the spring forecast had been published, the number had increased to \$349 million due to the formula. He calculated that combining the \$60 million and \$349 million resulted in \$409 million to be paid. He remarked that the amendment would potentially add another \$123 million. He asked if his statements were accurate.

Mr. Painter agreed.

Co-Chair Foster highlighted there was a good amount included in the budget for oil tax credits.

Representative Edgmon asked if the total payout would be \$532 million.

Mr. Painter agreed.

Representative Edgmon stated the committee had already put \$250 million in the CBR in an earlier amendment. He highlighted the amendment would use \$300 million on top of the amount, meaning the actions used \$550 million from the surplus projection based on current oil prices. He surmised the actions could result in foregoing the forward funding of education.

Mr. Painter clarified that the amendment added \$123 million because the \$349 million was in the current bill. He explained that the \$250 million was a supplemental. He elaborated that the amount in the amendment would come out of the projected \$832 million surplus in FY 23 and would reduce the amount to about \$700 million.

Representative Edgmon concluded the overall amount was \$532 million. He believed categorizing the amount as a debt was a term of art because it was not like a general obligation bond payment where interest was accumulating. He



highlighted that the money was not part of the debt ratio computed for the debt owed by the state because it was accompanied by conditional language. He pointed out that the state was not obligated to pay the amount in the amendment in the current year. He asked if he was mistaken.

3:27:45 PM

Mr. Painter answered that the item was subject to appropriation. He elaborated that statute specified the legislature may appropriate funds into the tax credit fund. He remarked that companies currently had substantial tax liability and there may be a secondary market to use the credits against that tax liability if the state did not purchase the credits.

Representative Edgmon was in favor of paying the amount off; however, he considered the number presented and the opportunity costs that may be out there in the minds of many constituents.

Vice-Chair Ortiz stated that if the legislature put forward the \$560 million, the bottom line was the funding would not go someplace else (e.g., the higher education fund, the PFD, and the capital budget). He explained the additional amount proposed in the amendment meant less money put into other programs. He asked if his statements were accurate.

Mr. Painter agreed. He noted if the funds were paid the next year, it would be just shifting the timing, but he confirmed there would be less funding available [for other things] in the current budget if the legislature paid the amount [proposed in the amendment].

Representative Josephson referenced data the state would not receive on local hire if the obligations were retired altogether. He asked for verification the state could not then provide incentives or privileges based on the data.

Mr. Painter answered that the question was outside of his jurisdiction.

Representative Wool MAINTAINED the OBJECTION to Amendment L11 as amended.

Representative Rasmussen provided wrap up on the amendment. She thought it was great that private sector oil companies

had done so well that they were projected to pay the state billions of dollars in taxes from their earnings that would enable the budget to include full and forward funding for K-12 education, in addition to putting money in savings, paying a modest dividend, and keeping a strong level of essential services intact. She continued that additionally, the legislature had the ability to pay off an obligation the state made when it had essentially "begged" the private sector to explore in Alaska. She believed it was incumbent on the state to make the investment in order to show good faith to the industry. She highlighted there were several years where the state had paid no credits. She speculated that \$130 million likely would have been paid in FY 20 and FY 21 if the legislature stuck to the statute. She thought it was important to pay the debt.

A roll call vote was taken on the motion.

IN FAVOR: Johnson, LeBon, Rasmussen, Thompson, Carpenter, Josephson, Merrick

OPPOSED: Edgmon, Ortiz, Wool, Foster

The MOTION PASSED (7/4). There being NO further OBJECTION, Amendment L11 was ADOPTED as amended.

[3:33:30 PM](#)

AT EASE

[3:44:22 PM](#)

RECONVENED

Co-Chair Foster noted that some committee members had other commitments and he intended to recess the meeting to possibly take up one more amendment prior to adjourning.

Representative Josephson thought the next amendment could take time.

Co-Chair Foster agreed. The goal was to do the amendment all at once.

HB 281 was HEARD and HELD in committee for further consideration.

HB 282 was HEARD and HELD in committee for further consideration.

Co-Chair Foster recessed the meeting [note: the meeting never reconvened].

#

ADJOURNMENT

3:46:43 PM

The meeting was adjourned at 3:46 p.m.